

VZCZCXRO3840
OO RUEHPA
DE RUEHC #8411/01 1971635
ZNR UUUUU ZZH
O R 161623Z JUL 07
FM SECSTATE WASHDC
TO RUEHPA/AMEMBASSY PRAIA IMMEDIATE 2123
INFO RHMFISS/JOINT STAFF WASHINGTON DC
RUEKJCS/SECDEF WASHINGTON DC
RHMFISS/CDR USEUCOM VAIHINGEN GE//

UNCLAS SECTION 01 OF 04 STATE 098411

SIPDIS

SIPDIS

E.O. 12958: N/A

TAGS: [PGOV](#) [PREL](#) [MARR](#) [CV](#)

SUBJECT: PROPOSED STATUS OF FORCES AGREEMENT WITH THE
REPUBLIC OF CAPE VERDE

¶1. This is an action request. See paragraphs 4, 5, 6, 8,
and 9.

¶2. Department of Defense uniformed, civilian, and possibly contractor
personnel
will likely visit the Republic of Cape Verde in the near future.

¶3. It is USG policy that DoD personnel should not be put at personal
risk from
the application of local law when deployed abroad under orders.
Obtaining status
of forces protections for DoD personnel and addressing other
important matters
is typically done through an exchange of notes with the host nation.
The
exchange of notes results in a binding status of forces agreement.
Unless the
terms of the presence of DoD personnel are agreed to beforehand,
issues relating
to jurisdiction, entry and exit procedures, carrying weapons
authorized by
orders, and other important matters can delay deployment or interfere
with
mission accomplishment once forces are on the ground.

¶4. We ask post to convey the importance that the USG places on such
agreements,
and ask that post conclude an exchange of notes to cover United
States DoD
personnel who may deploy to the Republic of Cape Verde in the future
to
participate in mutually agreed activities. Embassy should propose to
the
Government of the Republic of Cape Verde such an exchange of notes,
using the
text at paragraph 5. To avoid the exchange of multiple notes, post
should
present the note in a draft format and send a final note only after
reaching
agreement on the text. Post may draw upon points in paragraph 6 to
address host
nation questions about USG practice with regard to seeking such
protections.

¶5. Begin text of U.S. Note:

(Complimentary Opening) and has the honor to refer to recent
discussions between
representatives of our two Governments regarding issues related to
United States
military and civilian personnel (defined as members of the United
States Armed
Forces and civilian employees of the United States Department of
Defense,
respectively, hereafter referred to collectively as United States
personnel) and

United States contractors (defined as non-Republic of Cape Verde companies and firms, and their employees who are not nationals of the Republic of Cape Verde, under contract to the United States Department of Defense) who may be temporarily present in the Republic of Cape Verde in connection with mutually agreed ship visits, training, exercises, humanitarian activities, and other mutually agreed activities.

As a result of these discussions, the Embassy proposes that United States personnel be accorded the privileges, exemptions, and immunities equivalent to those accorded to the administrative and technical staff of a diplomatic mission under the Vienna Convention on Diplomatic Relations of April 18, 1961; that United States personnel may enter and exit the Republic of Cape Verde with United States identification and with collective movement or individual travel orders; that the Republic of Cape Verde shall accept as valid all professional licenses issued by the United States, its political subdivisions or States thereof to United States personnel for the provision of services to authorized

STATE 00098411 002 OF 004

personnel; and that the Republic of Cape Verde authorities shall accept as valid, without a driving test or fee, driving licenses or permits issued by the appropriate United States authorities to United States personnel for the operation of vehicles. The Embassy further proposes that United States personnel be authorized to wear uniforms while performing official duties and to carry arms while on duty if authorized to do so by their orders.

The Government of the Republic of Cape Verde recognizes the particular importance of disciplinary control by United States Armed Forces authorities over United States personnel and, therefore, authorizes the Government of the United States to exercise criminal jurisdiction over United States personnel while in the Republic of Cape Verde.

The Embassy further proposes that the United States Department of Defense and United States personnel shall not be liable to pay any tax or similar charge assessed within the Republic of Cape Verde and that the United States Department of Defense and United States personnel may import into, export out of, and use in the Republic of Cape Verde any personal property, equipment, supplies, materiel, technology, training, or services in connection with activities under this Agreement. Such importation, exportation, and use shall be exempt from any inspection, license, other restrictions, customs duties, taxes, or any other charges assessed within the Republic of Cape Verde. The Governments of the United States of America and the Republic of Cape Verde shall cooperate to take such measures as may be necessary to ensure the security and protection of United States personnel, property, equipment, records, and official

information
in the Republic of Cape Verde.

The Embassy proposes that vessels and vehicles operated by or, at the time, exclusively for the United States Department of Defense may enter, exit, and move freely within the territory of the Republic of Cape Verde, and that such vehicles (whether self-propelled or towed) shall not be subject to the payment of overland transit tolls. Vessels and aircraft owned or operated by or, at the time, exclusively for the United States Department of Defense shall not be subject to the payment of landing, parking, or port fees, pilotage charges, lighterage, and harbor dues at facilities owned and operated by the Government of the Republic of Cape Verde. Aircraft owned and operated by or, at the time, exclusively for the United States Department of Defense shall not be subject to payment of navigation, overflight, terminal or similar charges when in the territory of the Republic of Cape Verde. The United States Department of Defense shall pay reasonable charges for services requested and received at rates no less favorable than those paid by the Armed Forces of the Republic of Cape Verde less taxes and similar charges. Aircraft and vessels of the United States Government shall be free from boarding and inspection.

The Embassy also proposes that the United States Department of Defense may contract for any materiel, supplies, equipment, and services (including construction) to be furnished or undertaken in the Republic of Cape Verde without restriction as to choice of contractor, supplier, or person who provides such materiel, supplies, equipment or services. Such contracts shall be

STATE 00098411 003 OF 004

solicited, awarded and administered in accordance with the laws and regulations of the Government of the United States of America. Acquisition of articles and services in the Republic of Cape Verde by or on behalf of the United States Department of Defense in connection with activities under this Agreement shall not be subject to any taxes or similar charges in the Republic of Cape Verde.

The Embassy further proposes that United States contractors shall not be liable to pay any tax or similar charge assessed within the Republic of Cape Verde in connection with activities under this Agreement and that such contractors may import into, export out of, and use in the Republic of Cape Verde any personal property, equipment, supplies, materiel, technology, training, or services in fulfillment of contracts with the United States Department of Defense in connection with activities under this Agreement. Such importation, exportation, and use shall be exempt from any license, other restrictions, customs duties, taxes, or any other charges assessed within the Republic of Cape Verde.

The Embassy proposes that United States contractors shall be granted the same treatment as United States personnel with respect to professional and drivers' licenses.

The Embassy proposes that United States personnel shall have freedom of movement and access to and use of mutually agreed transportation, storage, training, and other facilities required in connection with activities under this Agreement.

The Government of the Republic of Cape Verde recognizes that it may be necessary for the United States Armed Forces to use the radio spectrum. The United States Department of Defense shall be allowed to operate its own telecommunication systems (as telecommunication is defined in the 1992 Constitution and Convention of the International Telecommunication Union). This shall include the right to utilize such means and services as required to ensure full ability to operate telecommunication systems, and the right to use all necessary radio spectrum for this purpose. Use of the radio spectrum shall be free of cost to the United States Government.

Further, the Embassy proposes that the Parties waive any and all claims (other than contractual claims) against each other for damage to, loss, or destruction of the other's property or injury or death to personnel of either Party's armed forces or their civilian personnel arising out of the performance of their official duties in connection with activities under this Agreement. Claims by third parties for damages or loss caused by United States personnel shall be resolved by the United States Government in accordance with United States laws and regulations.

Finally, the Embassy proposes further that our two governments, or their designated representatives may enter into implementing arrangements to carry out the provisions of this Agreement.

If the foregoing is acceptable to the Government of the Republic of Cape Verde, the Embassy proposes that this note, together with the Ministry's reply to that effect, shall constitute an agreement between the two Governments, which shall enter into force on the date of the Ministry's reply.

STATE 00098411 004 OF 004

(Complimentary Closing)
End text.

16. THE REPLY OF THE GOVERNMENT OF THE REPUBLIC OF CAPE VERDE SHOULD READ AS FOLLOWS:

BEGIN TEXT:

(COMPLIMENTARY OPENING) AND REFERS TO THE EMBASSY'S NOTE (NUMBER AND DATE) WHICH READS AS FOLLOWS:

(QUOTE U.S. NOTE IN ITS ENTIRETY.)

THE MINISTRY OF FOREIGN RELATIONS HAS THE FURTHER HONOR TO INFORM THE EMBASSY OF THE UNITED STATES OF AMERICA THAT THE PROPOSALS SET FORTH IN THE EMBASSY'S NOTE (NUMBER AND DATE) ARE ACCEPTABLE TO THE GOVERNMENT OF THE REPUBLIC OF CAPE VERDE AND TO CONFIRM THAT THE EMBASSY'S NOTE AND THIS NOTE SHALL CONSTITUTE AN AGREEMENT BETWEEN THE TWO GOVERNMENTS, WHICH SHALL ENTER INTO FORCE ON THE DATE OF THIS NOTE.

(COMPLIMENTARY CLOSING)

END TEXT.

¶7. The talking points below may be used as appropriate to address host nation concerns about signing such an agreement.

-- When United States DoD personnel deploy abroad for the purpose of conducting mutually agreed activities and there is no bilateral agreement already in place, the USG typically seeks to conclude a bilateral agreement with the host country regarding the status of United States DoD personnel through an exchange of notes which address various issues for DoD personnel engaged in the agreed activities. This is what we are proposing with your government.

-- Such an agreement would enable United States Department of Defense personnel to participate in activities to which both governments mutually agree without the need to renegotiate the ground rules each time.

-- The USG exchanges notes of this type with many countries around the world.

-- This exchange of notes does not constitute agreement by the Government of the Republic of Cape Verde to allow deployment of U.S. military personnel to the Republic of Cape Verde. It merely sets out the terms that would govern the presence of U.S. DoD military and civilian personnel in the Republic of Cape Verde when our governments agree to conduct a particular activity.

¶8. Post is requested to report by cable the delivery of the note. Any host country proposals for changes to the U.S. text should be referred to the Department. State POCs are Deji Okediji, AF/W (202-647-3469), and Thomas Herold, L/PM (202-647-7563). DoD POC is Phillip Kellogg, OASD/ISA/AFR (703-571-9393).

¶9. Upon conclusion of the exchange of notes, Embassy should report the agreement by cable and fax a copy of the notes to L/T at 202-647-1968. Post should follow this up by sending the original Cape Verde note with a certified copy of the U.S. note to the Department, L/T, room 3526, att: Daphne Cook.
RICE